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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALJOSHUA RULLAN, an individual, and
CHERYL RULLAN, an individual,

Plaintiffs,

vs.

JONG MIN RHEE (aka JOHN LUSSO);
LUSSO AUTO, LLC, a Nevada limited
liability company, dba LUSSO AUTO SPA &
DESIGN and LUSSO AUTO DESIGN;
DOES I through X, inclusive; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: 2:22-cv-00597-APG-BNW

**MOTION TO WITHDRAW AS COUNSEL
OF RECORD FOR DEFENDANTS ON
ORDER SHORTENING TIME**

COME NOW, Martin I. Melendrez, Esq. and Ashveen S. Dhillon, Esq. of the law firm Hawkins Melendrez, P.C., counsel of record for Defendants LUSSO AUTO, LLC and JONG MIN RHEE (collectively "Defendants") and hereby move this Honorable Court for an Order to allow counsel to withdraw as attorneys of record for Defendants pursuant to LR IA 11-6 on order shortening time.

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1 This Motion is made and based upon the Memorandum of Points and Authorities, the exhibits
2 attached hereto, the pleadings and papers on file herein, and any argument the Court may entertain at
3 the time of hearing.

4 Dated this 8th day of February 2023.

5 **HAWKINS MELENDREZ, P.C.**

6
7 /s/ Martin I. Melendrez

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15 *Attorneys for Defendants*

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **A. LEGAL ARGUMENT**

18 Hawkins Melendrez, P.C., attorneys of record for Defendants LUSSO AUTO, LLC and JONG
19 MIN RHEE seek leave from this Honorable Court to withdraw as counsel of record for all these
20 parties. Local Rule IA 11-6 states the following in pertinent part:

21 **LR IA 11-6. Appearances, Substitutions, And Withdrawals**

22 [...]

23 (b) If an attorney seeks to withdraw after appearing in a case, the attorney must file a
24 motion or stipulation and serve it on the affected client and opposing counsel. The
25 affected client may, but is not required to, file a response to the attorney's motion
26 within 14 days of the filing of the motion, unless the court orders otherwise.

27 [...]

28 (e) Except for good cause shown, no withdrawal or substitution will be approved if it
will result in delay of discovery, the trial, or any hearing in the case. Where delay
would result, the papers seeking leave of the court for the withdrawal or substitution
must request specific relief from the scheduled discovery, trial, or hearing. If a trial

1 setting has been made, an additional copy of the moving papers must be provided to
 2 the clerk for immediate delivery to the assigned district judge, bankruptcy judge, or
 magistrate judge.

3 Further, Nevada Rules of Professional Conduct Rule 1.16 provides for the procedure in which
 4 an attorney may withdraw from representation:

5 **Rule 1.16. Declining or Terminating Representation.**

6 (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where
 7 representation has commenced, shall withdraw from the representation of a client if:

8 ...

9 (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a
 client if:

10 (1) Withdrawal can be accomplished without material adverse effect on the
 interests of the client;

11 (2) The client persists in a course of action involving the lawyer's services
 that the lawyer reasonably believes is criminal or fraudulent;

12 (3) The client has used the lawyer's services to perpetrate a crime or fraud;

13 (4) A client insists upon taking action that the lawyer considers repugnant or
 with which the lawyer has fundamental disagreement;

14 (5) The client fails substantially to fulfill an obligation to the lawyer regarding
 the lawyer's services and has been given reasonable warning that the lawyer will
 15 withdraw unless the obligation is fulfilled;

16 (6) The representation will result in an unreasonable financial burden on the
 lawyer or has been rendered unreasonably difficult by the client; or

17 (7) Other good cause for withdrawal exists.

18 (c) A lawyer must comply with applicable law requiring notice to or permission
 of a tribunal when terminating representation. When ordered to do so by a tribunal, a
 lawyer shall continue representation notwithstanding good cause for terminating the
 19 representation.

20 (d) Upon termination of representation, a lawyer shall take steps to the extent
 reasonably practicable to protect a client's interests, such as giving reasonable notice
 to the client, allowing time for employment of other counsel, surrendering papers and
 property to which the client is entitled and refunding any advance payment of fee or
 21 expense that has not been earned or incurred. The lawyer may retain papers relating to
 the client to the extent permitted by other law.

22 Counsel submits this motion pursuant to LR IA 11-6, and requests leave of this Court to
 23 immediately withdraw as counsel for Defendants LUSSO AUTO, LLC and JONG MIN RHEE
 24 pursuant to Rule 1.16(b)(5) and 1.16(b)(7). Defendants have failed to abide by the terms of their
 25 engagement agreement with Hawkins Melendrez, P.C. regarding effective communication with
 26 counsel, which has impaired counsel's ability to effectively represent Defendants in this matter and
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 28

1 Defendants have failed to abide by other terms of said agreement. *See Exhibit A, Declaration of*
2 *Martin I. Melendrez, Esq.*

3 Defendants have been given reasonable warning via telephonic and written communications
4 that counsel will withdraw unless the obligations are fulfilled, and Defendants have acknowledged
5 their understanding of the same. *Id.* In addition, counsel and the clients have reached an impasse
6 regarding management of the case which renders counsel unable to carry out their duties of
7 representation. *Id.* For these reasons it is no longer feasible for counsel to represent Defendants. *Id.*
8 Accordingly, good cause exists for this Court to grant leave for counsel to withdraw from
9 representation of Lusso Auto, LLC, and Mr. Rhee. A copy of this motion has been sent to the clients
10 notifying them of counsel's request for leave to immediately withdraw from representation.

11 Pursuant to Rule 1.16(b)(1), counsel believes withdrawal can be accomplished without
12 material adverse effect on the interests of Defendants because counsel previously advised the clients
13 of their intent to withdraw from representation and given the discovery and trial dates in the parties'
14 Stipulated Discovery Plan and Scheduling Order dated November 10, 2022 [ECF 23], there is
15 sufficient time for Defendants to obtain new counsel should they choose to do so. Further, the Court's
16 Minutes dated December 12, 2022 pertaining to the parties' participation in settlement negotiations
17 states that pending these negotiations, discovery in this matter would be stayed by 60 days from the
18 date of those Minutes, and that in the event that there is no resolution, the parties would be required
19 to submit a new Discovery Plan and Scheduling Order extending the current deadlines by another 60
20 days. Hence, no delay of the trial or of any hearing for any other matter in the case will result from
21 counsel's withdrawal.

22 Based on the foregoing, the law firm of Hawkins Melendrez, P.C., respectfully requests that
23 this Court grant this instant Motion to Withdraw as Counsel of Record for Defendants LUSSO AUTO,
24 LLC and JONG MIN RHEE.

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B. CONCLUSION

Based on the foregoing, the law firm of Hawkins Melendrez, P.C. respectfully requests that this Honorable Court issue an Order allowing it to withdraw as counsel of record for Defendants LUSO AUTO, LLC and JONG MIN RHEE.

Dated this 8th day of February 2023.

HAWKINS MELENDREZ, P.C.

/s/ Martin I. Melendrez
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ORDER

IT IS ORDERED that ECF Nos. 28 and 29 are GRANTED.

IT IS FURTHER ORDERED that defense counsel must serve a copy of this order on Lusso Auto, LLC and Jong Min Rhee and file a notice with the Court confirming such service by 2/17/2023.

IT IS FURTHER ORDERED that Lusso Auto, LLC must retain counsel and have counsel file a notice of appearance by 3/10/2023. *See In re Am. W. Airlines*, 40 F.3d 1058, 1059 (9th Cir. 1994) (stating that "[c]orporations and other unincorporated associations must appear in court through an attorney."). Failure to comply with this order may result in sanctions.

IT IS FURTHER ORDERED that the Clerk of Court is to update Defendants' addresses in accordance with ECF No. 28 at 6.

IT IS SO ORDERED

DATED: 5:23 pm, February 09, 2023



BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 8th day of February 2023, a true and correct copy of the foregoing **MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANTS ON ORDER SHORTENING TIME**, was filed and served to the below through the Court's ECF service as follows:

Tye S. Hanseen, Esq.
MARQUIS AURBACH
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Las Vegas, Nevada 89145
Attorneys for Plaintiffs

John Rhee
35 Sankaty Circle
Henderson, NV 89052
Via Email and U.S. Mail

Lusso Auto, LLC
1125 American Pacific Dr., Ste. F.
Henderson NV 89074.
Via U.S. Mail

/s/ Denise Giancola
An employee of Hawkins Melendrez, P.C.